

ATTACHMENT 4: “3 Brian's treatment in jail with brittle diabetes, autism & OCD.pdf”

For “MEMORANDUM OF STELLA FORINASH AND KENNETH FORINASH IN FAVOR OF ACTUAL INNOCENCE OF BRIAN DAVID HILL; IN SUPPORT OF WHY BRIAN DAVID HILL SUSPECTS BLACKMAIL OF “JUDGES” AND “OFFICIALS”; AND IN SUPPORT OF GROUND VI - UNCONSTITUTIONAL INTERFERENCE WITH THE STATE COURT PROCESS AND/OR UNWARRANTED USURPATION OF POWER AGAINST THE STATE COURT PROCESS IN VIOLATION OF THE TENTH AMENDMENT OF THE UNITED STATES CONSTITUTION; AND IN SUPPORT OF 2255 MOTION (DOC. #291)”

Case no. 1:13-cr-435-1; civil no. 1:22-CV-00074

Ally of Q, Former news reporter of USWGO Alternative News
JUSTICEFORUSWGO.WORDPRESS.COM



Brian's Treatment in Jail with Brittle Diabetes, Autism & OCD

However, the PLRA does not apply to individuals who have been released from custody.

Talamantes v. Leyva, 575 F.3d 1021 (9th Cir. 2009) (exhaustion requirement not applicable to former prisoners not confined when suit is filed). Therefore a former prisoner or detainee, or their family members, if deceased, may be able to bring a claim for damages after release, even if the PLRA would have barred the suit while in a correctional facility.³⁵

See Page 30 "LEGAL RIGHTS of PRISONERS. INTERNET LINK

<http://main.diabetes.org/dorg/living-with-diabetes/correctmats-lawyers/legal-rights-of-prisoners-detainees-with-diabetes-intro-guide.pdf>

II. AMERICANS WITH DISABILITIES ACT AND REHABILITATION ACT PROHIBITIONS AGAINST DISCRIMINATORY TREATMENT

A. Title II of the Americans with Disabilities Act

The Supreme Court has held that Title II of the Americans with Disabilities Act (ADA) applies to state prisons. *See Pennsylvania Dep't of Corrections v. Yeskey*, 524 U.S. 206 (1998).⁴⁴

47860. The strongest ADA or Rehabilitation Act claims point to the specific prison programs or services that an inmate could not access due to their diabetes. Preferably, an ADA claim would state a claim for denial of services based on animus against a person with diabetes. Since the majority of claims by prisoners with diabetes relate to inadequate medical care, rather than unequal provision of services, most diabetes case law has developed under the Eighth and Fourteenth Amendments.

Page 39 & 58

American Diabetes Association
Government Affairs and Advocacy
1701 N. Beauregard St.
Alexandria, VA 22311
Email: LegalAdvocate@diabetes.org
Phone: 1-800-DIABETES

CRUEL & UNUSUAL PUNISHMENT IGNORED BY FEDERAL COURT

- Insulin-treated patients treated with insulin or sulfonylureas should have a CBG determination within 1–2 hours of arrival.
- Medications and nutritional goals should be continued without interruption upon entry into the detention setting.

Recommendations

- The sole use of sliding scale insulin is strongly discouraged.

SEE PAGE 7 <https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf>

<https://www.diabetes.org/tools-support/know-your-rights/attorney-materials/correctional-institutions-materials-for-lawyers>

People with diabetes should receive medical care from a physician-coordinated team. Such teams include, but are not limited to physicians, nurses, registered dietitian nutritionists (RDNs), pharmacists, and mental health professionals with expertise and a special interest in diabetes. Diabetes self-management education is an integral component of care and individuals with diabetes should play an active role in their own treatment. If possible, a patient should be permitted to continue all or parts of their self-management regimen under supervision.

Type 1 diabetes: All patients with type 1 diabetes require daily treatment with insulin. Patients with type 1 diabetes should be treated with a daily injection of long-acting basal insulin plus rapid acting prandial insulin at mealtimes. The dose of pre-meal insulin should be varied based on meal carbohydrate content and blood glucose levels. However, sole reliance on "sliding scale" insulin is inappropriate and can lead to dangerous hypo or hyperglycemia. Telemedicine consultations may be appropriate when treatment by a diabetes specialist (endocrinologist, physician with training/expertise in diabetology, or advanced practice nurse/certified diabetes care & education specialist is needed.

People in pre-conviction detention, including people in jails or holding cells, have similar protects under the Fourteenth Amendment. *See, e.g., City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983) (due process under 14th Amendment protects pre-trial detainees).

People subject to arrest are protected by the Fourth Amendment. *See, e.g., Currie v. Chhabra*, 728 F.3d 626 (7th Cir. 2013) (protections under Fourth Amendment for individuals detained by police). The Fourth Amendment applies to individuals have not been charged with a crime, but are still detained by police officers.²⁴

Cruel and unusual punishment under the Eighth Amendment includes deliberate indifference to serious medical needs. *See, e.g., Estelle v. Gamble*, 429 U.S. 97, 104 (1976).

Cir. 1999). The court distinguished between “unstable diabetes”—where blood sugar levels consistently fluctuate—and “‘stable’ diabetics” whose blood sugar levels remain consistent over time. *Rouse*, 182 F.3d at 198. The court suggested, without extensive analysis, that unstable diabetes would more apparently rise to the level of a serious medical condition. *Id.*

<https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf>

Hypoglycemia

Hypoglycemia is defined as a blood glucose level < 70 mg/dL (3.9 mmol/L). Individuals with blood glucose levels between 50 and 70 mg/dL may experience hunger, agitation, diaphoresis (excessive perspiration/sweating), and tremulousness. Blood glucose levels below 50 mg/dL can be associated with more severe signs and symptoms, including cognitive change, confusion, combativeness, seizure, or coma.

High blood sugar - The main symptoms of hyperglycemia are increased thirst and a frequent need to urinate. Other symptoms that can occur with high blood sugar are: Headaches, Tiredness, Blurred Vision, Hunger, Trouble with thinking or concentration, Frequent urination, May develop diabetic ketoacidosis, can lead to diabetic coma and death. Long term hyperglycemia complications can effect heart, kidneys, eyes, nerves, immune system, blood vessels. High blood sugar 180 mg/dL , called hypoglycemia.

So again two pages of document from Butner, NC are attached to prove my medical problems were out of control while I was jailed or in prison for the mental evaluation. I never should have been locked up. It would have been better if I were simply summonsed to go to trial and allowed to stay released with access to all of my evidence on my computer to introduce evidence pretrial to use in the Jury Trial to help give me a fair trial. A lot of wrongs were done to me throughout my case. If The Rutherford Institute had represented me then I would have just asked for acquittal based on all the violations of my Constitutional rights while I was incarcerated. The Court needs to not use the false admission of guilt against me.

Even at Butner, NC I was only given a limited amount of NPH. NPH is not the usual method insulin I usually get. It is units and based on carb intake and sliding scale. The jails did not take good care of me and my health can never survive in the jails for too long. The only reason my health wasn't as bad as it could have been was because I kept exercising in my cell at the jails or exercise during my 1-hour out of my cell. The reason my blood sugar went up and down despite being given limited insulin was because FCI-1 Butner, NC had a large running track and recreation yard. I kept walking on the track and even using their exercise room machines to build my muscles. All the exercising was why my A1C went as low as 8.8 but it still wouldn't prevent me from losing weight as my body needs a certain amount of calories every single day depending on how active I am and how much energy my body uses each day. I need the insulin to cover all of the carbs I intake. The jails did not give me enough insulin to cover all the carbs I ate and the diet trays do no good and only limit my energy and it impacts my critical thinking

<https://www.courtlistener.com/docket/4304407/82/united-states-v-hill/>

HEMOGLOBIN A1C				
Hemoglobin A1C	H	10.9	4.0-6.0	%

**Bureau of Prisons
Health Services
Clinical Encounter - Administrative Note**

Inmate Name:	HILL, BRIAN DAVID	Sex:	M	Race:	WHITE	Reg #:	29947-057
Date of Birth:	05/26/1990	Provider:	Sichel, Lawrence MD	Facility:	BUT	Unit:	N02
Note Date:	03/27/2014 11:30						

Medication Renewal/Review encounter performed at Health Services.

Administrative Notes:

ADMINISTRATIVE NOTE 1 Provider: Sichel, Lawrence MD

Nurse reports inmate told her he eats extra food at night because he is concerned he will be hypoglycemic with current insulin doses. Will try lower NPH in evening.

New Medication Orders:

<u>Ex#</u>	<u>Medication</u>	<u>Order Date</u>	<u>Prescriber Order</u>
	Insulin NPH -Human	03/27/2014 11:30	30 units Subcutaneously each morning x 180 day(s) Pill Line Only
Indication: Diabetes mellitus, type I (juvenile type)			
One Time Dose Given: No			
	Insulin NPH -Human	03/27/2014 11:30	18 units Subcutaneously each evening x 180 day(s) Pill Line Only

Brian was sick on May 16, 2014, and he explained that he gets his shot 1-2 hours after eating the meal instead of minutes after he eats.

<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

XI. Medical Records from one or more county detention centers while under U.S. Marshals custody of imprisonment, proves that the Defendant was not provided adequate medical attention prior to his guilty plea and prior to his sentencing

Medical records from the County Detention Centers (See **Exhibit 2**) also show that the Defendant's health was not being taken well care of prior to his false

<https://www.courtlistener.com/docket/4304407/128/1/united-states-v-hill/>

1. **(1 Page, Part 1)** September 30, 2014, a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in Hillsborough, North Carolina. The medical record is of Defendant Hill. Shows Hill's weight at 140lbs.

DOCUMENT VITAL SIGNS:						
Respiration: 14	O2 Sat: 98	Pulse: 88	Temperature: 98.6	Blood Pressure: 110/78	Weight: 153	140

Defendant's Signature: Brian D. Hill Date: 10/1/14
 Interviewer's Signature and Title: M. Kitchens LPN Date: 10-1-14

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 4 of 101

Brian David Hill had lost 40 pounds in 9 months. He was also sent to various jails (3 jails & 1 prison in that amount of time with autism & OCD and no one to help with his autism – no aids in jail or in various days in courtrooms. The Americans with Disabilities Act also covers seizures, autism and OCD as well as diabetes. Brian is a brittle type 1 diabetic.

2. **(1 Page, Part 2)** December 20, 2013, a page from the medical record of Correct Care Solutions ("CCS"), the healthcare provider of Forsyth County Detention Center in Winston-Salem, North Carolina. The medical record is of Defendant Hill. Shows Hill's weight at 180lbs. Also proves that Defendant was talking about suicide on this intake screening.

Patient Vitals:

Observed Date	Blood Pressure	Pulse	Resp. Rate	Temp	Pulse Ox	Weight	BMI
12-20-2013 05:12 PM CST	142/88	112	20	97.90	98	180	25.8

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 5 of 101

<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

3. **(1 Page, Part 3)** Blood Sugar Flow Sheet from June 1 to June 9, 2014 (*June 10, Defendant was at the change of plea*), a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in
- Page 5 of 29

Hillsborough, North Carolina. The medical record is of Defendant Hill. Shows Hill was not being given any diabetic insulin on the Status Conference court hearing on June 4, 2014. No insulin was given because the nurse had stated in the record that two times the Defendant was "in court" for health checks around "07:30" and "12P". Around 3PM Hill's blood sugar was 429 and insulin was given. That meant that Defendant had no diabetic insulin given, not even for breakfast, until after the U.S. Deputy Marshals had returned Hill from federal court in the afternoon. The whole status conference on Jun 4, 2014, Defendant Hill had no diabetic insulin to regulate his blood sugar and the Court has to wonder why his blood glucose was 429. That was the last hearing that Defendant was verbally displeased with his court appointed Counsel prior to his false guilty plea.

See Chart & PROOF Here:

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 6 of 101

<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

During this 9 day period, the Orange County Jail in Hillsborough, NC showed 27 test results. At home he would have tested his glucose minimum 4 times a day, many times more = at least 36 test results. Out of these 27 glucose results one was extremely low (22); 6 were extremely high (over 300), 15 were high and 5 were in the normal range. **No Insulin & No Glucose Results on 6/4/2014 at 7:30 AM or 11:30 AM - in COURT. At 3 PM that day 429.**

4. **(1 Page, Part 4)** May 16, 2014, a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in Hillsborough, North Carolina. The medical record is of Defendant Hill. Shows Hill filing an "inmate sick call slip - medical request" complaining about being given insulin hours after he eats. Normally Defendant is advised by his Medical Doctor to do insulin shot

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 43 of 71



Southern Health
Partners
Your Partner In Affordable Inmate Healthcare

ATTN: ALL PERSONNEL URGENT!
Thank You

INMATE SICK CALL SLIP – MEDICAL REQUEST

TO BE COMPLETED BY INMATE: Please complete the top half of the Sick Call Slip and return it to the correctional officer and/or medical staff for submission and review by the medical staff. The medical staff will arrange for you to be seen by the appropriate medical staff member. You will be charged in accordance with the medical co-pay system at this facility.

Today's Date: 05-25-14 Pod/Location: old Jail Cell: SM ID# 238306

Inmate's Full Name: Brian David

Complaint/Problem: I think my blood sugar low. I need something with sugar as soon as possible. Even peanut butter would do.

TO BE COMPLETED BY MEDICAL STAFF:

- ☐ See Clinical Pathway for Documentation/Response
- ☐ See Physician Order for Response to this Sick Call
- ☐ See Progress Note for Response to this Sick Call
- ☒ See Below for Response to this Sick Call

Rec'd
5-26

Nurse's Signature/Date: M. Kitchens Up

around the time that he eats a meal, so that whether it be
starches or sugars, the insulin acts to convert the glucose into
energy. Note: Being given insulin hours after eating while
incarcerated is a bad practice and is cruel and unusual
punishment to the Defendant, and that was before his false
guilty plea was entered, and the Court has to wonder why an
innocent man such as Hill would have falsely taken the guilty
plea when the County Jails/Dungeons would not take care of
Hill's health properly. After Defendant was released on
prison sentence of time served, Hill was able to follow his
Doctor's recommendations and do his insulin shot around
each time he eats. Defendant again recommends to the Court
that he not be jailed again during the course of these 2255
proceedings, otherwise it places the Defendant in the same
conditions, the same situation, as to what led to Defendant
falsely pleading guilty.

5. (1 Page, Part 5) May 25, 2014, a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in Hillsborough, North Carolina. The medical record is of Defendant Hill. Shows Hill filing an URGENT! "inmate sick call slip - medical request" complaining about his diabetic blood sugar being low and the

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 8 of 101

<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

Jail guards had done nothing about it. Outside of the record, Defendant testifies in this entry that after the sick call, Defendant had attempted to eat one or more sugar packets until a Jail guard had caught him attempting to eat glucose in an attempt to raise his blood sugar. The Jail guards intervened through use of force, Defendant had peacefully attempted to explain that his blood sugar was low while they had refused to bring the nurse in and refused to do anything about it. It led to Defendant beating on the Jail guard, being thrown on the floor, being kicked in the face while pinned down, Defendant cussing at the Jail guards and stating an accusation that they

See more of his description Document 128-2 Page 19-22

HYPOGLYCEMIA
(low blood sugar)

- sweating
- shakiness
- anxiety
- confusion
- difficulty speaking
- uncooperative behavior
- paleness
- irritability
- dizziness
- inability to swallow
- seizure
- loss of consciousness

• **Sugar:** If a detainee with diabetes requests a source of sugar to treat his/her diabetes, immediately provide that person with a sugared soft drink, juice, or another fast-acting source of sugar, followed by bread or crackers.

may be working for North Carolina State Senator Phil Berger,
out of rage and anger that Defendant felt from being denied
glucose which is essential to preventing a brittle type 1
diabetic from going into a diabetic seizure. Defendant had
screamed while blood was pouring out of his nose that "I AM
BRIAN DAVID (or "D. "?) HILL OF USWGO
ALTERNATIVE NEWS, AND I HAVE BEEN FRAMED
(or "set up"?) WITH CHILD PORNOGRAPHY". Defendant
had screamed that over and over until the Jail guards
forcefully moved his legs in an uncomfortable position to hurt
the Defendant, had his clothes ripped off, and was butt naked

Given Juice / glucose tab for low BG level
Redchecked BS = 185 @ 10:30pm 5/25/14, informed staff
to give glucose tab if I/m reports low blood sugar
again - let him check BS for ✓ He is able to do it.

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 8 of 101

sitting in a dirty padded cell with feces contaminants.
Defendant had felt that the Jail had wanted to kill him by not
providing all medical needs, whether intentional or not.
Defendant was not being taken good care of. The fact that
Brian didn't even finish writing his whole name in the sick
call is another sign that his brain functions started
deteriorating. Because of the Jail staff ignoring his low blood
glucose, they had never charged him with assault since they
were the ones in the WRONG for refusing to have a nurse
check his blood sugar to see if his blood sugar really was low.

They didn't do anything for a brittle diabetic that would have
faced a diabetic seizure if he were not in a diabetic seizure
already. They failed Defendant Hill on his medical needs

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 46 of 71

again. That is why the Court needs to consider not detaining the Defendant during the course of these 2255 proceedings.

6. **(1 Page, Part 6)** Blood Sugar Flow Sheet from May 14 to May 30, 2014, a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in Hillsborough, North Carolina. The medical record is of Defendant Hill. Shows Hill had a significant number of high blood sugar readings. Some of the highest blood sugar numbers are 397, 300, 440, 331, 344, 330, 336, and 397 again. The Jail had failed Hill and they did not provide him with 24 hour medical necessary services. They are one of the multiple reasons for Hill's false guilty plea.

<https://www.courtlistener.com/docket/4304407/128/1/united-states-v-hill/>

This is for 17 days. It was checked 50 times. At his home it would have been checked more than 68 times. He had 4 lows (And from our experience with Brian he was probably in a coma on 5/26/14 (his 24th birthday) from the experience he had recorded & told his family about). It's a miracle that he is still alive from the nurses' notes. He had 11 extreme highs; 16 highs and 19 in the normal range.

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 8 of 101

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 9 of 101

<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>



For more information about diabetes, call 1-800-DIABETES, or visit www.diabetes.org

7. **(1 Page, Part 7)** October 20, 2014, a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in Hillsborough, North Carolina. The medical record is of Defendant Hill and appears to be a third party test done by Quest Diagnostics. Shows Hill's diabetic blood hemoglobin level was 8.8 which is a high number. Hill was prescribed metformin to try to control Hill's high blood sugars even though such medication was originally meant for Type 2 diabetics. Another failure of Orange County Detention Center to keep Defendant Hill's blood sugars under control. Collected on 10/16/2014, Received on 10/18/2014, Reported on 10/20/2014.

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 10 of 101
<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

8. **(1 Page, Part 8)** December 20, 2013 to December 23, 2014, a page from the medical record of Correct Care Solutions ("CCS"), the healthcare provider of Forsyth County Detention Center in Winston-Salem, North Carolina. The medical record is of Defendant Hill. Shows Hill's blood sugar levels from the "Diabetic Flow Sheet" That was while he was

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 47 of 71

butt naked in a turtle suit (as some would call it) for those days on suicide watch. Blood sugars had ran for 287, and 281 on December 20, 2013. That meant Defendant had only been tested two times that day. The two highest blood sugar levels were 424 and 445. Other high numbers were 356, 340, 322, and 273. Hill had a lot of high blood sugar glucose numbers while at Forsyth County Detention Center.

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 11 of 101
<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

His blood glucose was checked 12 times in these 8 days. At home it would have been checked at least 32 times. He had 6 extreme highs and 6 high glucose readings.

9. (1 Page, Part 9) December 22, 2013, a page from the medical record of Correct Care Solutions ("CCS"), the healthcare provider of Forsyth County Detention Center in Winston-Salem, North Carolina. The medical record is of Defendant Hill. Shows Hill's blood sugar levels were noticed to have been high multiple times, and it shows that Defendant Hill had been known as to have the problem of "Suicide and Self-Inflicted Injury by Other and Unspecified Means". Of course that happened after Special Agent Brian Dexter of the U.S. Dept. of Homeland Security ("DHS") transported Hill from Martinsville Memorial Hospital on December 20, 2013, to Forsyth County Detention Center. Because Hill had saw certain Jail guards wearing "SRT" uniforms, Hill assumed that they were U.S. military and that he was in some Mini-Gitmo aka Guantanamo bay type center for torturing

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 12 of 101

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 48 of 71
suspected terrorists, so Hill yelled that he was going to kill

himself somehow, and told the medical staff that he wanted to die. Partially out of fear of being tortured no thanks to the fear of the DHS arresting him, and also due to the wrongful allegations that Hill had possessed child pornography. Hill knew they wouldn't let him prove his actual innocence before being arrested and knew that a court appointed lawyer would not do anything to prove his innocence. That was what initially led up to the suicidal statements. The fear that Hill would be beaten, tortured, or killed for being accused of possessing child pornography, and not allowed to prove his innocence.

10. (1 Page, Part 10) February 1, 2014 to February 7, 2014, a page from the medical record of Correct Care Solutions ("CCS"), the healthcare provider of Forsyth County Detention Center in Winston-Salem, North Carolina. The medical record is of Defendant Hill. Shows Hill's blood sugar levels from the "Diabetic Flow Sheet" The highest blood sugars had ran for 406, 421, 313, 326, and 300.

There were 23 blood test results in 7 days. At home there would have been 28 and more done. He had 1 extreme low (31); 5 extreme highs; 14 high glucose and 3 in the normal range.

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 13 of 101
<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

11. (1 Page, Part 11) January 13, 2014 to January 18, 2014, a page from the medical record of Correct Care Solutions ("CCS"), the healthcare provider of Forsyth County Detention Center in Winston-Salem, North Carolina. The medical record is of Defendant Hill. Shows Hill's blood sugar levels from the "Diabetic Flow Sheet" The blood sugars were both high and low, again out of control due to Hill's diabetes being brittle, as again diagnosed by Doctor Steven South of Greensboro, North Carolina, when Hill was a kid. Hill's blood glucose cannot be controlled within a controlled prison

There were 27 blood glucose test results in 6 days. There would have been 24 or more done at home. He had 6 low blood glucose readings; 3 extreme highs; 12 high glucose & 6 normal.

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 14 of 101
<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

• **Access to diabetes medication and food:** Detainees with diabetes must continue their medication schedule without interruption to avoid dangerously high blood glucose levels (hyperglycemia) and must always have access to food to avoid dangerously low blood glucose levels (hypoglycemia). In addition, it is important to coordinate meals and medication to maintain blood glucose levels in a safe range.

12. (1 Page, Part 12) January 26, 2014 to January 31, 2014, a page from the medical record of Correct Care Solutions (“CCS”), the healthcare provider of Forsyth County Detention Center in Winston-Salem, North Carolina. The medical record is of Defendant Hill. Shows Hill’s blood sugar levels from the “Diabetic Flow Sheet” The blood sugars were both high and low, again out of control due to Hill’s diabetes being brittle, as again diagnosed by Doctor Steven South of Greensboro, North Carolina, when Hill was a kid. Hill’s blood glucose cannot be controlled within a controlled prison environment or even jail environment. Some of the high blood sugar readings were 417, 346, 316, and 325.

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 15 of 101
<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

There were 25 blood glucose test results in 6 days. There would have been 24 or more done at home. He had 2 low blood glucose readings; 10 extreme highs; 9 high glucose & 4 normal.

13. (1 Page, Part 13) October 29, 2014, a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in Hillsborough, North Carolina. The medical record is of Defendant Hill and appears to be a “MEDICATION ADMINISTRATION

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 51 of 71
Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 16 of 101

HYPERGLYCEMIA
(high blood sugar)

- flushed skin
- labored breathing
- confusion
- cramps
- very weak
- sweet breath
- nausea
- loss of consciousness

Action: Give access to water, bathroom, and medication, and obtain immediate assistance from a qualified health care professional.

14. **(1 Page, Part 14)** Blood Sugar Flow Sheet from October 1 to October 21, 2014, a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in Hillsborough, North Carolina. The medical record is of Defendant Hill. Shows Hill was being tested sometimes two times a day, and some with three times in one day. When Hill's blood glucose is only tested twice a day, then he is only given insulin those times. So Hill wasn't being given the appropriate amount of insulin per meal each day. They had again failed to give Hill adequate insulin since they had only used sliding scale. They did not use the carb counting system, none of the Jails had counted the carbohydrates. When Jails give non-sugar foods as part of the diet trays for diabetics, they often may contain starches which normally aren't sugary but will slowly convert into glucose and will normally raise the blood sugar of the diabetic if untreated. Jails don't train their nurses to normally count carbs from the diet trays and then inject the appropriate amount of insulin at every meal. Because of that the blood sugars will normally run high, and can also dive low due to different factors including too much insulin and the diabetic exercising back and forth in the jail cell. The highest blood sugar numbers were 467, 417, 471, 460, 409, 333, 381, 366, 350, 379, and 338. Two or three blood sugar numbers were low. This is terrible blood sugar control.

There were 49 blood glucose test results in 21 days. There would have been 84 or more done at home. He had 3 low blood glucose readings; 27 extreme highs; 15 high glucose & 4 normal

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 17 of 101

<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

15. (1 Page, Part 15) Blood Sugar Flow Sheet from October 22

to November 6, 2014, a page from the medical record of Southern Health Partners, the healthcare provider of Orange County Detention Center in Hillsborough, North Carolina.

The medical record is of Defendant Hill. Shows Hill was still running high blood sugar numbers, despite the metformin.

Some high blood sugars are recorded as 373, 402, 398, 364, 400 (2 times (2x)), 331, 368, 369, 375, 351. That was before Hill was released from Orange County Detention Center and to appear before the sentencing hearing that would have been

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 18 of 101
<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

There were 30 blood glucose test results in 16 days. There would have been 64 or more done at home. He had 0 low blood glucose recorded; 18 extreme highs; 10 high glucose & 2 normal

on November 7, 2014, but was canceled due to a medical emergency of not being any diabetic insulin before being picked up by the deputy U.S. Marshals.

16. (3 Pages, Part 16) November 7, 2014, three pages from the medical record of Moses H. Cone Hospital in Greensboro,

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 53 of 71
<https://www.courtlistener.com/docket/4304407/128/1/united-states-v-hill/>

Case 1:13-cr-00435-TDS Document 131 Filed 11/14/17 Page 19 of 101
<https://www.courtlistener.com/docket/4304407/131/united-states-v-hill/>

North Carolina. The medical record shows that on November 7, 2014, the deputy U.S. Marshals revealed that they had tested his blood sugars multiple times and were found to be 534, and 510, that *"he had missed his insulin last night."* That is because Orange County Detention Center (Orange County Jail) had no night nurse. Normally the deputy U.S. Marshals pick up federal prisoners early in the morning. That means no diabetic insulin can possibly be given to the Defendant before being forced to appear in federal court, since the day-nurse (no night nurse at all) comes in usually after the U.S. Marshals pick up federal prisoners earlier in the morning before the nurse from Southern Health Partners checks in. The deputy U.S. Marshals saw that is consistent high blood sugars were a problem (a legal problem or medical problem???) and had transported him to the Hospital. The November 7, 2014, "Sentencing hearing" in front of the honorable U.S. District Court Judge William Lindsey Osteen Junior was canceled due to that medical emergency. The Court has to wonder why Hill had never completely withdrawn his guilty plea and stuck with his false guilty plea when he had plenty of opportunity to withdraw his plea. Again it is ineffective Counsel and deteriorating health conditions. Hill would have lost his SSI (social security) disability money if he had not been released from Jail before 1 year. There were multiple factors why Hill had falsely plead

guilty and as to why he didn't fully withdraw his guilty plea before his sentencing. The medical record also said that "*He came into Marshall's company and was noted to have a blood sugar of 534.*" I think they had meant U.S. Marshals custody but they type these medical reports up usually quickly in emergency situations. The U.S. Marshals did have somebody called a medic who did had provided Hill with an insulin shot but his blood sugar had still remained high after that. The medical record also said that "The history is provided by the patient and the police." So they did acknowledge that Hill was in police (U.S. Marshals) custody at the time the medical record as made. No diabetic insulin was given to Hill by Orange County Detention Center on the day of the sentencing hearing. John Scott Coalter and Eric David Placke did absolutely nothing about Defendant Hill's medical conditions except to just go along with it, and didn't fight to make sure that Defendant Hill was getting enough proper medical attention while in Jail or released under reasonable conditions such as the conditions of his Supervised Release. Why was Defendant given more reasonable conditions by the U.S. Probation office after he had falsely plead guilty than in the event that Hill could have been released on bond/bail?

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 55 of 71

The medical records listed above on record for Exhibit 2, prove for a fact that Defendant Hill had been given poor and terrible medical care while in the custody of the County Detention Centers aka the County Jails while a federal prisoner of the U.S. Marshals. The records showed that for two federal court hearings (Sentencing November 7, 2014 (canceled), and Status Conference on June 4, 2014) Hill had not received diabetic insulin before being picked up by the deputy U.S. Marshals for Hill to appear in court. One time he was in the hospital, the other time his blood sugar was found to being 429 at 4:00PM. His blood sugars had remained out of control, even after being given metformin medication that was actually meant for Type 2 diabetics, hoping that his blood sugars would stabilize. Hill's medical care was poorly taken care of while a federal prisoner. Hill has given good medical reason (valid excuse) as to why Hill had given the false guilty plea. Ineffective Counsel plays a role in this as well, since it was their job to ensure that Hill was given proper medical care or that could have been released from Jail on reasonable pretrial release conditions similar to the Supervised release conditions (after guilty plea) where he would be allowed to use a telephone and be allowed to fax his Pretrial Services Officer, so that Hill would be able to take care of his medical issues and see his Medical Doctor. Hill would also be able to comply with his pretrial release conditions

any reasonable circumstances prior to his false plea of guilty. For medical reasons and ineffective assistance of Counsel, Hill should not be charged with perjury for his change of plea for proving actual innocence. Instead Eric David Placke and John Scott Coalter should be charged for subornation of perjury since they did nothing about Defendant's deteriorating health, and did nothing to prove Defendant's actual innocence. Attorney Renorda E. Pryor of the "Supervised Release Revocation" hearing did a better job at arguing Defendant's deteriorating health at both the final revocation hearing on June 30, 2015, and the probable cause hearing in front of the Magistrate Judge, than his trial attorneys had done throughout Hill's criminal case prior to Judgment. Hill recommends that his ineffective Counsel be faced with subornation of perjury charges, as well as charges of endangering Hill's health by doing nothing about

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 57 of 71

<https://www.courtlistener.com/docket/4304407/128/1/united-states-v-hill/>
Hill's deteriorating health. They both have obstructed justice by not giving Hill complete access to his criminal case discovery materials prior to Judgment, having him plead guilty and stick with his guilty plea without Hill ever knowing what all of the evidence he could have used in his defense, until January 22, 2015 which is a few months after Judgment.

Roberta Ruth Hill, a witness to this criminal case, has written a notarized witness declaration letter for the Court in support of both this brief and the § 2255 motion on the grounds of actual innocence, and ineffective assistance of Counsel. The home address is in compliance with the Federal Rules since that witness has given consent to that address being part of that declaration for the Court, for the public record. See **Exhibit 52** for that witness letter for the Court.

Kenneth Forinash, a witness to this criminal case, has written a notarized witness declaration letter for the Court in support of both this brief and the § 2255 motion on the grounds of actual innocence, and ineffective assistance of Counsel. The home address is in compliance with the Federal Rules since that witness has given consent to that address being part of that declaration for the Court, for the public record. See Exhibit 51 for that witness letter for the Court.

Stella Forinash, a witness to this criminal case, has written a notarized witness declaration letter for the Court in support of both this brief and the § 2255 motion on the grounds of actual innocence, prosecutorial misconduct (referring to the FOIA lawsuit of Defendant), and ineffective assistance of Counsel. The home address is in compliance with the Federal Rules since that witness has given consent to that address being part of that declaration for the Court, for the public record. See Exhibit 50 for that witness letter for the Court.

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 58 of 71

Pages excerpted/extracted of the Bureau of Prisons Butner North Carolina medical records on Pages 7 and 8 of Document #82, Filed 04/27/2015, are/were a true and correct copy from the Butner Federal Correctional Institution medical records acquired by Hill while he was a mental evaluation study, then mailed to his family before was placed in Orange County Detention Center. This record is true and correct medical record to the best of my knowledge, and proved that my diabetic hemoglobin A1C was 10.9 as reported on February 19, 2014. For the 3-month A1C blood hemoglobin average the record proves that Hill's diabetic A1C was extremely and dangerously high since he had been initially arrested on December 20, 2013, by Special Agent Brian Dexter of the U.S. Department of Homeland Security. Another good medical reason as to why I/Hill gave a false guilty plea.

Case 1:13-cr-00435-TDS Document 128-2 Filed 11/14/17 Page 13 of 58

<https://www.courtlistener.com/docket/4304407/128/2/united-states-v-hill/>

ONE more important item from Brian and how his court appointed attorney lied to Brian's family in email on January 10, 2014:

served, then once released, he could get access to his NovoLog Flexpen insulin instead of the mandatory 70/30 insulin that the Jails had provided Hill, and he can have access to his 24-hour glargine (Lantus) insulin which Hill's health is put into jeopardy when he is without his Lantus for even one day. When he is not getting his 24 hour insulin, his bladder overruns, the Novolog insulin is not as effective, and Hill's weight will start to drop and his body will begin

35

Case 1:13-cr-00435-TDS Document 128 Filed 11/14/17 Page 35 of 101

deteriorating overtime. This puts the Defendant at high risk of forced amputations, coma, nerve damage, kidney damage, eyesight damage, or even other undesired results or even death. Hill's request that he change his plea back

<https://www.courtlistener.com/docket/4304407/128/united-states-v-hill/>

JLK-RSB, Document #24-2, Filed 07/03/2017), it further shows that Placke lied in email to Hill's family on January 10, 2014, that *"I met with Brian for about an hour and a half earlier today. He was in good spirits, said that he had seen a doctor and the jail's medical staff was doing a "great" job of managing his diabetes, and that he feels "a lot better."* Well according to the other evidence filed in Doc. #24-2 (Page 21 of 26 Pageid#: 429, cont. of W.D.V.A. Hill v. EOUSA) of his federal lawsuit in Danville, VA, the high blood sugars that Hill had logged in the Jail's medical records between January 2, to January 10, 2014, where logged as "1-3-14 | time: 0445 | result: 344", "1-5-14 | time: 2010 | result: 349", "1-10-13 (wrong year?) | time: 1802 | result: 302", "1-8-14 | time: 1830 |

134

Case 1:13-cr-00435-TDS Document 128-1 Filed 11/14/17 Page 33 of 71
<https://www.courtlistener.com/docket/4304407/128/1/united-states-v-hill/>

Diabetes is serious: It can be life threatening!

People with diabetes control their blood sugar (glucose) level by balancing medication, food, and activity. Many must test their blood sugar levels numerous times each day. People with diabetes must have access to their medication (insulin or oral medication) and food in order to avoid blood sugar levels that are dangerously high or low.

Warning Signs that Require Action

HYPOGLYCEMIA

(low blood sugar)

- sweating
- shakiness
- anxiety
- confusion
- difficulty speaking
- uncooperative behavior
- paleness
- irritability
- dizziness
- inability to swallow
- seizure
- loss of consciousness

Action: Give 1/2 can sugared (non-diet) soda (unless the person cannot swallow) and obtain immediate assistance from a qualified health care professional.

HYPERGLYCEMIA

(high blood sugar)

- flushed skin
- labored breathing
- confusion
- cramps
- very weak
- sweet breath
- nausea
- loss of consciousness

Action: Give access to water, bathroom, and medication, and obtain immediate assistance from a qualified health care professional.

BRIAN'S REPORTS TO MD NC Federal court about horror treatments of his disabilities and mental abuse in various jails by employees

<https://www.courtlistener.com/docket/4304407/134/united-states-v-hill/>

1. I have mild autism General Anxiety Disorder, OCD, and type 1 brittle diabetes. My health affects my judgement. With my ALC being up I am at risk of kidney damage, nerve damage, eye damage, and any other complications. With being told by pleading guilty I will get time served which means I could have got out jail soon to protect my health. Then after seeing all the terms and conditions by Probation I realized that the conviction and mandatory conditions will affect my health far worse then fighting my charge in court. I been set up with child porn, likely for political reasons, and I want to let this all go and move on with my life. It will be extremely difficult

Case 1:13-cr-00435-TDS Document 32 Filed 09/15/14 Page 2 of 7
<https://www.courtlistener.com/docket/4304407/32/united-states-v-hill/>

Autism

COMMUNICATION

The person you are interacting with:

- May be non verbal or have limited verbal skills
- May not respond to your commands or questions
- May repeat your words & phrases; your body language and emotional reactions
- May have difficulty expressing needs

BEHAVIOR

- May display tantrums or extreme distress for no apparent reason
- May laugh, giggle or ignore your presence
- May be extremely sensitive to lights, sounds or touch
- May display a lack of eye contact
- May have no fear of real danger
- May appear insensitive to pain
- May exhibit self-stimulating behavior: hand flapping, body rocking or attachment to objects

IN CRIMINAL JUSTICE SITUATIONS

- May not understand rights or warnings
- May become anxious in new situations
- May not understand consequences of their actions
- If verbal, may produce false confession or misleading statement

Case 1:13-cr-00435-TDS Document 37 Filed 09/18/14 Page 13 of 75

Principles for Prosecutors Considering Child Pornography Charges against Persons with Asperger's Syndrome

Among the difficulties faced by young persons afflicted with Asperger's Syndrome (AS) and their families is the misinterpretation of the atypical behavior of the AS patient as dangerous and criminal. AS, defined in DSM-IV, is an "Autism Spectrum Disorder" (ASD) typified by extreme social and emotional immaturity, the inability to "read" others or respond appropriately in social settings, lack of intuitive awareness of social/moral/legal constraints, and intense and narrowly directed repetitive activities. These features combine to create a risk of engaging in behavior offensive toward others but with no offensive purpose. These individuals tend to have the technical skills for computer use, to which they gravitate because, unlike social interactions which are unpredictable, whimsical, and semantic-guided, computers are predictable, logical, and syntax-guided. These are intellectually intact people, with good computer skills but extraordinary brain-based naivete, acting in social isolation, compulsively pursuing interests which often unknowingly take them into forbidden territory.

Case 1:13-cr-00435-TDS Document 37 Filed 09/18/14 Page 14 of 75

Accessing child pornography is not currently known to be a frequent behavior of young persons with AS, but enough cases have arisen to demonstrate the need for prosecutors to inform themselves of the condition and adopt a policy of restraint in the investigation and prosecution of such cases. Given the lack of social adaptation on the part of AS patients, interest in pornography as a means to explore ideas of sexuality and romance is expected. The exploration of this material on the internet or peer-to-peer networks will expose AS patients to child pornography which may arouse their curiosity. At these times AS is directly

involved in the individual's obliviousness to the social and legal taboos surrounding child pornography, and the inability to intuit that the visual depictions are the product of any kind of abusive relationships. This behavior is not predictive of future involvement with child pornography or offenses against children. There is nothing inherent in Autism Spectrum Disorders, such as Asperger's, to make individuals inclined to sexual deviance of any kind. Their apparently deviant behavior is perhaps best understood within the diagnosis of "counterfeit deviance," as defined in the DM-ID. ("Diagnostic Manual -- Intellectual Disability (DM-ID): A Textbook of Diagnosis of Mental Disorders in Persons with Intellectual Disability") Persons with AS are far less likely to be predators than victims, because of their naivete and ineptness in interpreting or deflecting the advances of others, and their inability to initiate social contact with others or effectively direct or manipulate any social encounter.

Asperger's Syndrome is a lifelong disability which on its own creates substantial hurdles for the patient. Criminal prosecution, conviction and the typical sanctions imposed in such cases are not necessary to protect the public in the case of an AS patient, but they are imponderably harsh, cruel and debilitating to persons with AS and their families on whom they are dependent. Generally these individuals are not a threat to society: it's the other way around. AS patients are frequently the target of abuses, such as bullying, often from poorly chosen "friends."

With this in mind, we suggest that prosecutors adopt the following principles when confronted with those who suffer from Asperger's Syndrome are found to be involved with child pornography.

5. Persons with AS experience lifelong difficulties. Young persons with AS are not able to live independently, and need to live with their families – their parents and siblings. Therefore the sex offender registration and residency restrictions arising from a child pornography conviction would have a cumulative and disastrous effect in these cases, and on more uninvolved person, than in other cases involving neuro-typical adults.

6. Prosecutors should be encouraged to defer criminal prosecution in cases involving young first offenders with AS who have no history of directly offending against children, or having produced or distributed child pornography, no clinical indications of pedophilia (other than accessing child pornography), nor history of prior offenses involving child pornography.

Case 1:13-cr-00435-TDS Document 37 Filed 09/18/14 Page 18 of 75

<https://www.courtlistener.com/docket/4304407/38/united-states-v-hill/>

page
1/2

Deteriorating Health Declaration

I, Brian David Hill, declare under penalty of perjury that the foregoing is true and correct. Executed on September 19, 2014.

Brian D. Hill
signed

Statement:

Statement:

signed

Since my incarceration in December 2013, my health has deteriorated. My weight went from over 200 to 153lbs last weight check at ~~Guilford~~ Guilford County Jail. My blood sugars are more times high then low. Part of that is due to nurses not using the Insulin-to-carb-ratio of 1 unit per 7 grams of carbohydrates I intake at every meal, by Dr. Steven South in NC. At Federal Correctional Institution 1 in Butner, NC my A1C was tested in February, 2014, and the blood hemoglobin 3-month A1C average was tested as 10.9 which is a dangerous level which proves I may already be receiving diabetic damage each day.

damage. The longer I sit and fight in my criminal case, I face permanent damages which cannot be reversed after winning my case. My type 1 brittle diabetes is brittle. The stress, anxiety, and fear this criminal case has inflicted on me has also affected my blood sugars.

2

Deteriorating Health Declaration

Being locked up, shaken down by Jail officers, and being treated like a criminal has also caused emotional and mental health damage. Then in addition to my suffering in Jail every day, my lawyer did not do what needed to be done to win my case, and I felt helpless so I am having to file evidence with the court so that I won't break down and sink into depression. Out in the world I took Lantus insulin and fast acting NovoLog insulin. For every snack and meal, I took NovoLog insulin based on the 7-1 carb ratio. Every night I take Lantus

Due to limited insulin I receive in Jail, my energy is not as good as it was, and my blood sugars run high. My blood sugars affect my judgement and have contributed to my guilty plea. My health is important to me. I just want the court to understand that my health is fragile, that for every meal I eat needs to have enough insulin to cover that meal. The methods the Jail nurses use don't work well. Insulin to carb ratio and sliding scale work well together to maintain my blood glucose level. Unless the jail can properly administer enough insulin for my carb intake, my blood sugars and A1C levels will continue to run at dangerously high levels.

If we had not gotten Brian out of jail or prison, he would have continued suffering until death and would have never gotten out. Brian is innocent. This should never have happened to him! He would have also lost his SSI disability check each month and other disability benefits & help in the world out of jail. He had already lost 11 months SSI money along with his constitutional freedoms

and half or more of his prescribed insulin and daily received cruel and unusual punishment by November, 2014 (And through this all, he is INNOCENT). We have showed proof via some medical records of the jails not giving him his prescribed insulin for over 9 months at this time with highs & lows (some medical records Brian obtained after getting out & put some on pacer court records). This 11 months of torture without his getting the prescribed insulin he needs will shorten his life even after he does leave jail and later cause complications. Court date was set for Nov. 7, 2014 & US Marshalls had Brian in court early.

On court days in Greensboro, NC, Brian spent the night before in the Orange Correctional Institution (Orange County Jail) in Hillsborough, NC which was 42 miles from court in Greensboro, NC, 43 minutes travel time on Hwy. 85. There was no night nurse at the Orange County Jail so Brian told us and told the US Marshalls that he did not have any insulin on court days until that evening. He would get one fast insulin shot that day after court. I still wonder why this court did that and who made sure he was in the jail in Hillsborough instead of the jail in Greensboro on court days. The U.S. Marshalls did not believe Brian so this went on from Jan. 2014 until Nov. 2014. Finally, on Nov. 7, 2014, there was someone in the court who did test his glucose and found it to be over 500 and gave him an insulin shot. It didn't go down much so they took him to Cone Hospital in Greensboro, NC. This was the same hospital that Brian was diagnosed as type 1 insulin dependent diabetic in February, 1992. The hearing was postponed because of that to Monday, Nov. 10, 2014. Brian made sure later that this proof was in the Pacer Federal court records. Documents 46 & 47 Sept. 30, 2014 & Oct. 1, 2014

Stella B. Forinash (Brian Hill's grandmother).
Kenneth R. Forinash (Brian Hill's grandpa)